



California Regional Water Quality Control Board
North Coast Region
William R. Massey, Chairman



Linda S. Adams
Agency Secretary

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Arnold
Schwarzenegger
Governor

June 28, 2008

Mr. Brian Morrissey
RDHC, LLC
323 Fifth Street
Eureka, CA 95501

Dear Mr. Morrissey:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Vance Dairy Levee Repair and Water Control Structure Removal Project

File: Vance Dairy - Levee Repair and Water Control Structure Removal
WDID No. 1B06040WNHU

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341), in response to your request, on behalf of RDHC, LLC (applicant), for Water Quality Certification to repair an existing levee and to remove a water control structure from wetlands on the Vance Dairy near Beatrice, Humboldt County. On April 13, 2006, the Regional Water Board received your application and a \$500.00 processing fee. On June 6, 2006, we deemed the application complete and posted information describing the proposed project on the Regional Water Board's website for a 21-day public review and comment period. We did not receive any public comments on this project.

Project Description: The project is located along the west side of Salmon Creek and the north side of Hookton Road. The project is on a ninety-acre portion of the applicant's 290-acre dairy property. The land affected by the proposed project is wetlands on diked former tidelands that are used for agricultural purposes, primarily cattle grazing. The primary purpose of the project is to repair four breaks in an existing levee that is located along the west side of Salmon Creek. During the past winter, high flows in Salmon Creek created significant breaks at four locations in the levee and several additional minor breaches. The levee breaks have significantly increased flooding of the applicant's property by Salmon Creek. Repairing the levee is necessary to prevent additional flooding and erosion of the productive grazing land soil. The levee repairs will also reduce the potential for stranding of

adult and juvenile salmonids by maintaining Salmon Creek in its main channel during typical high flow events.

The levee repairs consist of removing any debris and non-fill material from the break area and filling the break area with imported fill material. A backhoe, excavator, and dump truck will be used to place the fill and a sheepsfoot will be used to compact the fill material. The proposed project will not result in any expansion of the existing levee. The previous extent of the existing levee will be determined by stringing a line between two points on the levee face that are adjacent to the levee break. After the levee breaks are repaired, each site will be seeded and straw-mulched to reduce erosion. Additional repairs to the existing levee may be made over the next five years if similar breaks occur and the same levee repair methods are utilized.

The project also involves the removal of a water control structure that was installed without permits. The concrete and wooden materials will be completely removed and the land surrounding the water control structure will be restored to replicate previously existing conditions. The disturbed area will be tilled or scarified and planted with the same grasses that are used on other areas of the property. The project is scheduled for the summer of 2006.

Receiving Waters:	Salmon Creek and Hookton Slough in the Eureka Plain Hydrologic Unit No. 110.00
Latitude/Longitude:	40.671N/124.202W
Filled or Excavated Area:	Area Temporarily Impacted: none Area Permanently Impacted: 0.06 acre of wetland (0.02 acre of fill on an existing levee on previously filled wetlands and 0.04 acre of wetlands are to be restored by removal of a water control structure
Federal Permit:	U.S. Army Corps of Engineers Nationwide Permit No. 13 (File No. 301180N)
Compensatory Mitigation:	None.
Noncompensatory Mitigation:	Noncompensatory mitigation measures for this project include the use of Best Management Practices for sediment and turbidity control. All construction activities will be implemented according to the Natural Resource Conservation Service's specifications. The applicant submitted emergency notification to the California Department of Fish and Game on March 23, 2006.
CEQA Compliance:	The County of Humboldt, as the lead California Environmental Quality Act (CEQA) agency, certified a Mitigated Negative

Declaration on January 20, 2005.

Standard Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The applicant shall notify Regional Water Board staff at least five working days (working days are Monday – Friday) prior to the commencement of the project, with details regarding the schedule of operations, to allow staff the opportunity to be present onsite and to answer any public inquiries that may arise regarding the project.
- 2) A copy of this permit must be provided to all contractors and subcontractors conducting work on this project, and a copy must be in their possession at the work site. It is the applicant's responsibility to ensure that the contractor and all subcontractors are provided a copy of this permit.
- 3) All activities and Best Management Practices shall be implemented according to the submitted application and the conditions in this Water Quality Certification.
- 4) Adequate Best Management Practices for sediment and

turbidity control shall be implemented and in place during and after construction in order to ensure that no silt or sediment enters surface waters.

- 5) Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall be outside of waters of the United States. Fueling, lubrication, maintenance, storage and staging of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicle or equipment, which leaks any substance that may impact water quality.
- 6) If, at any time, an unauthorized discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and Regional Water Board staff shall be notified promptly.
- 7) No debris, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State.
- 8) Project activities shall comply with provisions in the North Coast Region Water Quality Control Plan (Basin Plan).
- 9) The project site may be visited and assessed by Regional Water Board staff to document compliance with this certification.
- 10) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the applicant, the applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address, and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also

describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Vance Dairy Levee Repair and Water Control Structure Removal Project, (Facility No. 1B06027WNHU) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on June 28, 2011. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Dean Prat of our staff at (707) 576-2801 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure:

State Water Resources Control Board Order No. 2003-0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification"

cc: Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Functions, 333 Market Street,
San Francisco, CA 94599
U.S. Army Corps of Engineers, District Engineer, P.O. Box 4863, Eureka, CA 95502
Mr. Marty McClelland, Oscar Larson & Associates, 317 Third Street, Eureka, CA 95501